

## REMARKS/DISCUSSION:

This Response D is being filed within the shortened statutory period for response that ends on May 22, 2010. This Response D is also being filed in combination with a Request for Continuing Examination.

By this Response D, claims 61-64 and 69-71 are pending in this application. Claims 69-71 are new.

Amendment and/or cancellation of claims are not to be construed as a dedication to the public of any of the subject matter of the claims previously presented. Further, any amendments or arguments are made without conceding the correctness of any of the rejections of the pending Office Action, and Applicant(s) reserves the right to prosecute the subject matter of such claims in continuation and/or divisional applications.

Applicant has carefully studied the outstanding Office Action. This Amendment is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

### **A. Rejection Under 35 U.S.C. § 112**

- a. Claims 61-64 stand rejected as being indefinite

Claim 61 has been amended to overcome the rejection.

### **B. Rejection Under 35 U.S.C. § 103(a)**

- a. Claims 61-62 stand rejected as being unpatentable over Beuchat et al. (US 5,499,969) in view of Podany et al. (US 6,013,048) and Holland, Jr. (US 6,03,886).

Claim 61 has been amended to include the step monitoring the user applied pressure to

the switch and outputting a pressure value in response thereto. This step is neither disclosed nor suggested in either of the cited references.<sup>1</sup>

- b. Claim 63 stands rejected as being unpatentable over Beuchat et al. in view of Podany and Holland as applied to claim 61 and further in view of Culp et al. (US 6,090,123)

Claim 63 depends from claim 61, and for the reasons set forth above, claim 63 is patentable over the cited art.

- c. Claim 64 stands rejected as being unpatentable over Beuchat et al. in view of Podany and Holland as applied to claim 61 and further in view of Kusunoki et al. (US 5,529,580)

Claim 64 depends from claim 61, and for the reasons set forth above, claim 64 is patentable over the cited art.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

---

<sup>1</sup> The Applicants also disagree with the Examiner's interpretation of Podany "the first power occurs when switch 62 is turned on" and "deactivating the hand-piece would permit the monitored pressure reached a second threshold". Office Action Pg. 3 ¶3. Podany neither discloses nor suggests a "monitored pressure". Applicants believe this point is moot, however, in favor of the amendments to claim 61.

### **Conclusion**

Applicants submit that in view of the discussion, the rejections under 35 U.S.C. §§ 112 and 103 have been overcome and that the invention is now patentable over the cited prior. The Examiner is respectfully requested to reconsider all rejections and pass this case to issue.

Should any minor points remain prior to issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, which may be required to Account No. 10-0750/END0745USDIV2/VEK.

Respectfully submitted,

/Verne E. Kreger, Jr., Reg. #35231/  
Verne E. Kreger, Jr.

Verne E. Kreger, Jr.  
Attorney for the Applicant(s)  
Reg. No. 35,231

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
513 337-3295  
DATED: May 21, 2010